

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, et al.,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**SUPPLEMENTAL OBJECTION OF AMBAC ASSURANCE CORPORATION AND
FINANCIAL GUARANTY INSURANCE COMPANY TO THE URGENT JOINT
MOTION OF THE OVERSIGHT BOARD AND AAFAF FOR ORDER EXTENDING
(A) STAY PERIOD, (B) MANDATORY MEDIATION, AND
(C) CERTAIN DEADLINES RELATED THERETO**

1. Ambac Assurance Corporation (“Ambac”) and Financial Guaranty Insurance Company (“FGIC”) respectfully submit this supplemental objection to the *Urgent Joint Motion for an Order Extending (A) Stay Period, (B) Mandatory Mediation, and (C) Certain Deadlines Related Thereto* (Dkt. No. 8972, “Urgent Motion”) filed by the Financial Oversight and Management Board for Puerto Rico (“Oversight Board”) and the Puerto Rico Fiscal Agency and

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801).

Financial Authority (“AAFAF,” and together with the Oversight Board, “Movants”). In support of their objection, Ambac and FGIC state as follow:

2. Ambac and FGIC have joined, in full, the *Objection and Reservation of Rights of Assured Guaranty Corp., Assured Guaranty Municipal Corp., Ambac Assurance Corporation, Financial Guaranty Insurance Company, National Public Finance Guarantee Corporation, and Invesco Funds with Respect to (i) Urgent Joint Motion of Oversight Board and AAFAF for an Order Extending (A) Stay Period, (B) Mandatory Mediation, and (C) Certain Deadlines Related Thereto and (ii) Modification to Urgent Joint Motion of Oversight Board and AAFAF for an Order Extending (A) Stay Period, (B) Mandatory Mediation, and (C) Certain Deadlines Related Thereto* (“Stay Motion Objection”). For the reasons set forth therein, the Urgent Motion should be denied in its entirety.

3. Ambac and FGIC submit this limited supplemental objection to urge that, in the event the Court is inclined to grant the Urgent Motion despite the objections thereto, any extension of the mediation stay not apply to, and expressly carve out, amendments of the currently pending PRIFA stay-related motion filed by Ambac and FGIC. *See Motion Concerning Application of the Automatic Stay to the Revenues Securing PRIFA Rum Tax Bonds* (Dkt. 7176) (“PRIFA Stay Motion”).

4. On September 25, 2019, while the mediation stay was in effect, the First Circuit issued a decision clarifying the law governing stay relief under PROMESA and articulating a specific analysis that the district court must undertake in deciding a stay motion. *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 939 F.3d 340 (1st Cir. 2019). In light of this new guidance from the First Circuit, Ambac and FGIC informed the Oversight Board that they intend to amend

the PRIFA Stay Motion to address, among other things, the new guidance from the First Circuit. The Oversight Board has indicated that it will oppose any effort to amend the PRIFA Stay Motion.

5. In the event that the Oversight Board does oppose Ambac and FGIC's amendment of the PRIFA Stay Motion, the threshold procedural dispute concerning amendment should be resolved before the parties resume litigation of the substantive issues. Litigation of this procedural dispute likewise would not impact the substantive posture of the motions or require parties to further entrench in their legal positions. Ambac and FGIC would therefore respectfully request that, even if the Court were to grant the Urgent Motion extending the stay until December 31, 2019, such stay not extend to any amendments to the pending PRIFA Stay Motion. Procedural disputes regarding amendments, if any, can be briefed in December, when the mediation stay under the original Stay Order expires. If there are no objections by the Oversight Board or otherwise, then Ambac and FGIC would agree to stay briefing on the amended motion until the expiration of the extended stay period. Proceeding in this manner would allow the parties and the Court to proceed without undue delay to litigation over the substantive issues once the mediation stay expires. This schedule would serve the interests of all parties and enable the Court and parties to align the substantive consideration of all of the revenue bond-related issues upon the expiration of the stay.

CONCLUSION

WHEREFORE, for the reasons set forth in the Stay Motion Objection and herein, the Urgent Motion should be denied in its entirety, or in the alternative, amendments of the pending PRIFA Stay Motion should be exempted from the stay extension.

Dated: October 25, 2019
San Juan, Puerto Rico

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